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Government-Industry Advisory Panel  
Tension Point Development

**Original Title:** 5.e Operation, Maintenance, Installation, and Training (OMIT) versus detailed manufacturing and process data (DMPD)

**Authors:** Dr. Roger Hamerlinck

**Tension Point:** OMIT versus DMPD. Current statute and policy calls out default rights for OMIT but excludes DMPD. OMIT is not defined in statute or policy. DMPD is defined in the Defense Federal Acquisition Regulation Supplement (DFARS).

**Issue:** What is “maintenance” as used in OMIT in relation to “manufacturing” in DMPD and whether the Department of Defense (DoD) depots perform maintenance or manufacturing DMPD.

**Recommendation:**

**Define OMIT data as the data necessary to operate, maintain, install, and train military and civilians in the proper operation and maintenance of equipment and software from the operator, crew, organizational, intermediate and depot-level.** For software, reference Title 10 USC Section 2460(a), Definition of Depot-Level Maintenance and Repair, and Defense Financial Management Regulation (FMR), Volume 6.a, Addendum 5, Software Maintenance. For hardware, reference Title 10 USC Section 2464(a) Core Logistics Capabilities, and Department of Defense Instruction (DODI) 4151.20(E1.7) – Depot Maintenance Core Capabilities Determination Process

**10 USC 2320 Title. Change to read: “Rights in Technical Data and Computer Software”.** This change is necessary for several reasons: 1) the addition of Modular Open Systems Approach (MOSA) applies to both equipment and software; 2) in association with MOSA is the application of “interface” data; and 3) weapon systems are including more and more software in their design, operation, and maintenance. Reference Title 10 USC Section 2460(a), Definition of Depot-Level Maintenance and Repair.

**10 USC 2320(a)(1). Change to read: “...legitimate interest of the United States and of a contractor or subcontractor in technical data and computer software pertaining to an item or process...” and “...third party a fee or royalty for the use of technical data and software pertaining to an item or process...”** This change is necessary to continue the theme of the title of the statute.

**10 USC 2320(a)(2)(A)(i). Change to read: “use technical data and computer software pertaining to the item or process; or”.**

**10 USC 2320(a)(2)(A)(ii). Change to read: “release or disclose the technical data or computer software to persons outside the government...”**

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**10 USC 2320(a)(2)(B). Change to read: “...technical data and computer software pertaining to the item or process to persons outside the government or permit the use of the technical data or software by such persons. This includes detailed manufacturing and process data.”**

**10 USC 2320(a)(2)(C)(iii). Change to read: “is necessary for operation, maintenance, installation, or training; or”.** This attempts to remove the confusion between maintenance and manufacturing by only talking about OMIT in this paragraph and moving the detailed manufacturing and process data to (a)(2)(B). Also, recommending eliminating the phrase “including such data pertaining to a major system component” because we do not want to confuse maintenance and manufacturing, especially as it might apply to MOSA.

**10 USC 2320(a)(2)(D). Change to read: “...or permit the use of technical data or computer software by such persons, if –“.**

**10 USC 2320(a)(2)(D)(II). Change to read: “...disclosure, or use of technical data or computer software pertaining to an interface...”**

**10 USC 2320(a)(2)(D)(III). Change to read: “...disclosure of technical data and computer software (other than detailed manufacturing or process data...”**

**10 USC 2320(a)(2)(D)(ii). Change to read: “...prohibition that the person to whom the data or computer software is released or disclosed may not further release...”**

**10 USC 2320(a)(2)(E). Change to read: “...contractor or subcontractor in technical data or computer software pertaining to such...” and “...based on negotiations (with the exception of (a)(2)(C) above) except in any case in which the Secretary of Defense...”**

**10 USC 2320(a)(2)(F). Change to read: “Notwithstanding subparagraphs (C) and (E)...” and “...government purpose rights in technical data or computer software pertaining to an interface (except where such data is FFF or OMIT) between an item or process...” and “...that negotiation of different rights in such technical data or computer software would be in the best...”**

**10 USC 2320(a)(2)(G). Change to read: “...Notwithstanding subparagraphs (B), (C) and (E), the United States shall have government purpose rights in technical data or computer software pertaining to a...” and “...negotiation of different rights in such technical data or computer software would be...” and “...For technical data or computer software pertaining to a major system...”**

**10 USC 2320(a)(2)(H)(i). Change to read: “...any rights in technical data or computer software except-...”**

**10 USC 2320(a)(2)(H)(i)(I). Change to read: “...rights in technical data or computer software described in...”**

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**10 USC 2320(a)(2)(H)(i)(II). Change to read: "...rights in technical data or computer software described..."**

**10 USC 2320(a)(2)(I)(i). Change to read: ".....acquisition of rights in technical data or computer software not otherwise provided..."**

**10 USC 2320(a)(2)(I)(ii). Change to read: "...restrict rights in technical data or computer software otherwise..."**

**10 USC 2320(a)(2)(I)(iii). Change to read: "...third party the use of technical data or computer software which the contractor..."**

**10 USC 2320(a)(3)(b). Change to read: "...contain appropriate provisions relating to technical data or computer software, including provisions..."**

**10 USC 2320(a)(3)(b)(1). Change to read: "...subcontractor (at any tier) regarding any technical data or computer software to be delivered..."**

**10 USC 2320(a)(3)(c)(1). Change to read: "...the United States all technical data or computer software required to be delivered to the..."**

**10 USC 2320(a)(3)(c)(2). Change to read: "...of any technical data or computer software delivered under a contract..."**

**10 USC 2320(a)(3)(c)(3). Change to read: "...regarding the respective rights in technical data or computer software of the United..."**

**10 USC 2320(a)(3)(e). Change to read: "...systems to assess the long-term technical data and computer software needs of such..." and "...strategies that provide for technical data or computer software rights needed to sustain..."**

**10 USC 2320(a)(3)(e)(2). Change to read: "...the future delivery of technical data or computer software that were not..."**

**10 USC 2320(a)(3)(f)(2)(A). Change to read: "...proprietary or nonpublic technical data or computer software furnished will be..."**

**10 USC 2320(a)(3)(f)(2)(B). Change to read: "...contractor to whom the rights to the technical data or computer software belong..."**

**10 USC 2320(a)(3)(f)(2)(C). Change to read: "...nonpublic nature of the technical data or computer software furnished to the covered..." and "...from disclosing the technical data or computer software outside..."**

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**10 USC 2320(a)(3)(f)(2)(D). Change to read: "...ownership or rights in such technical data or computer software may subject..."**

**10 USC 2320(a)(3)(f)(2)(D)(ii). Change to read: "...subcontractor whose technical data or computer software is affected..."**

**10 USC 2320(a)(3)(f)(2)(E). Change to read: "that such technical data or computer software provided..."**

**DFARS 227.7103-5(a)(5). Change to read: "Necessary for operation, maintenance, installation, and training."**

**DFARS 227.7103-5(b)(4). Add subparagraph (iii) Detailed Manufacturing and process data when necessary for depot-level maintenance."**

**DFARS 252.227-7013(a). Insert a subparagraph (15) and renumber the remaining subparagraphs. "(15) Operation, maintenance, installation, and training data" means the data necessary to operate, maintain, install, and train military and civilians in the proper operation and maintenance of equipment and software from the operator, crew, organizational, intermediate and depot-level."**

**DFARS 252.227-7013(b)(1)(v). Change to read: "Necessary for operation, maintenance, installation, and training;"**

**DFARS 252.227-7013(b)(2)(iii). Add subparagraph (C) "Detailed manufacturing and process data when necessary for depot-level maintenance."**

**DFARS 252.227-7014(a). Add subparagraph (15) and renumber the remaining subparagraphs. "(15) Operation, maintenance, installation, and training data" means the data necessary to operate, maintain, install, and train military and civilians in the proper operation and maintenance of equipment and software from the operator, crew, organizational, intermediate and depot-level."**

**DFARS 252.227-7015(a). Insert a new subparagraph (4) and renumber the remaining subparagraphs. "(4) Operation, maintenance, installation, and training data means the data necessary to operate, maintain, install, and train military and civilians in the proper operation and maintenance of equipment and software from the operator, crew, organizational, intermediate and depot-level."**

**DFARS 252.227-7018(a). Insert a new subparagraph (18) and renumber the remaining subparagraphs. "(18) Operation, maintenance, installation, and**

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**training data means the data necessary to operate, maintain, install, and train military and civilians in the proper operation and maintenance of equipment and software from the operator, crew, organizational, intermediate and depot-level.”**

**DFARS 252.227-7018(b)(1)(ii). Change to read: “Necessary for operation, maintenance, installation, and training;”**

**DFARS 252.227-7018(b)(3). Add this sentence: “This includes detailed manufacturing and process data.”**

**Cross-reference to other Tension Points: 1a, 2b, 2c, 2d, 2f, 5a, 5d, 5g, and 5i.**